



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,220	10/31/2003	Jim Musbach	004-4-1	2794
30080	7590	09/20/2004	EXAMINER	
LAW OFFICE OF CHARLES E. KRUEGER P.O. BOX 5607 WALNUT CREEK, CA 94596-1607			VERBITSKY, GAIL KAPLAN	
			ART UNIT	PAPER NUMBER
			2859	

DATE MAILED: 09/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,220

Applicant(s)

MUSBACH ET AL.

Examiner

Gail Verbitsky

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 6/17/2004
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Claim Objections*

1. Claims 1, 3-4 are objected to because of the following informalities:

Claim 1: A) perhaps applicant should insert –source—after “a light” in line 8 in order to clearly describe the invention.

B) perhaps applicant should replace “auto” with –automobile—and “served) with –repaired—in the last line of the claim in order to maintain consistency throughout the claim.

Claim 3: “the energy zone” in line 5 lacks antecedent basis.

Claim 4: perhaps applicant should replace “an auto being served” in the last line of the claim with –an automobile being repaired-- in the last line of the claim in order to maintain consistency throughout the claim.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: A) It is not clear how the sighting system is structurally related to the thermometer, B) It is not clear how the light for illuminating is structurally related to the thermometer, C) It is not clear how the

Art Unit: 2859

magnetic base is structurally related to the thermometer, does the magnetic base serves as an attachment of the thermometer (or the sighting device, or the light for illuminating) to the automobile?

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollander et al. (U.S. 5823679) [hereinafter Hollander].

For claim 2: Hollander discloses in Fig. 12 a device comprising a IR temperature measuring and processing device including an IR optics, inherently having a focal length, the optic directing an IR energy from an energy zone from a target onto an IR sensor so as to determine the temperature of the target at the energy zone.

For claim 3: Hollander discloses in Fig. 12 a device comprising a laser device for illuminating (visibly outlining periphery, col. 4, lines 44-61) an area around the center of an energy zone of a target.

With respect to the preamble of claims 2-3: the preamble of the claims does not provide enough patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and a portion of the claim following the preamble is a self-contained description of the structure not depending for

Art Unit: 2859

completeness upon the introductory clause. Kropa v. Robie, 88 USPQ 478 (CCPA 1951).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Winnard (U.S. 6614337)

Winnard discloses in Fig. 1 a device having a magnetic surface/ base, the device is attachable to any surface including a surface of a car, so as to attach a tool/ instrument.

With respect to the preamble of claim 4: the preamble of the claims does not provide enough patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and a portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. Kropa v. Robie, 88 USPQ 478 (CCPA 1951).

#### ***Allowable Subject Matter***

7. Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. Claim is allowable because the prior art fail to teach a dual laser cross beamed sighting system including two lasers oriented to have their beams cross at the focal point of the IR optics, in combination with the remaining limitations of claim 1.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices and methods.

Application/Control Number: 10/699,220

Page 5

Art Unit: 2859

Any inquiry concerning this communication should be directed to the Examiner Verbitsky who can be reached at (571) 272-2253 Monday through Friday 8:00 to 4:00 ET.

GKV

*Gail Verbitsky*

*Primary Patent Examiner, TC 2800*

A handwritten signature in black ink, appearing to read 'G. Verbitsky', with a stylized, flowing script.

August 24, 2004